

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
MEG & SCOTT LESTER AND MARK & SUSAN FREDENBERG
ZONING MAP AMENDMENT REPORT (#FZC-15-04)
SEPTEMBER 30, 2015**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Sands Surveying, Inc., on behalf of Meg & Scott Lester and Mark & Susan Fredenberg for a zoning map amendment within the Highway 93 North Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from 'SAG-10 Suburban Agricultural' to 'R-2.5 Rural Residential.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on October 14, 2015 at 6:00 P.M. in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 1st Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment.

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West in Kalispell. Prior to the Commissioner's public hearing, documents will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the Flathead County Planning Board review of the proposal.

B. Commission

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Owner/Applicants

Meg & Scott Lester
PO Box 1698
Kalispell, MT 59903

Mark & Susan Fredenberg
2280 Whitefish Stage
Kalispell, MT 59901

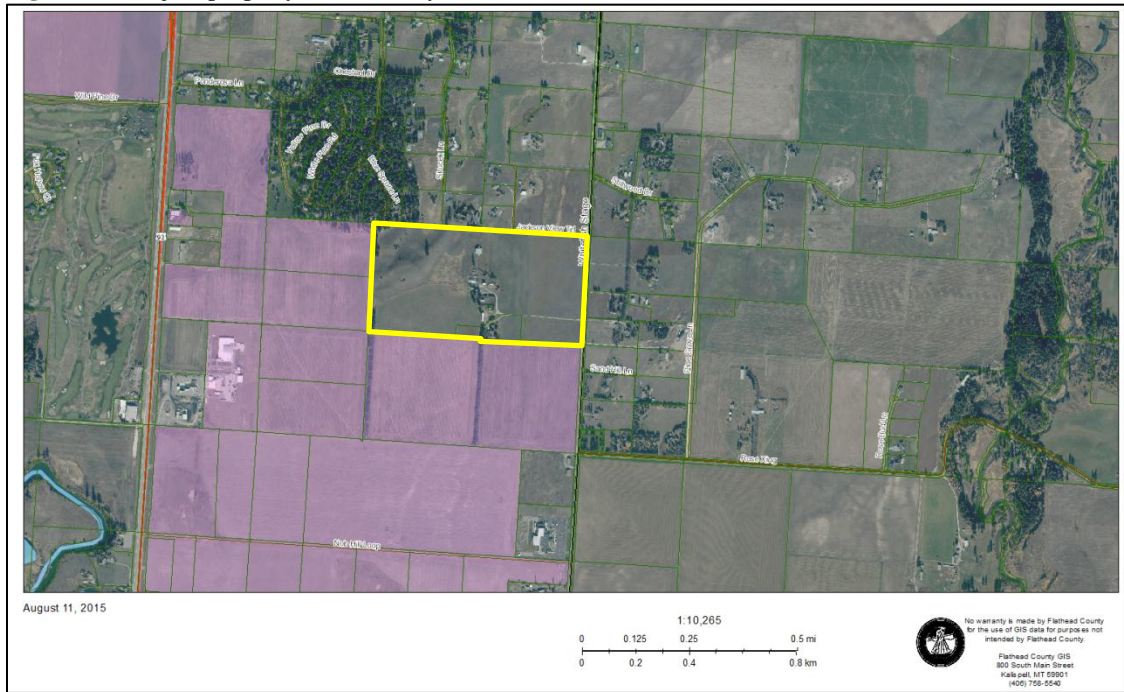
ii. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

B. Subject Property Location and Legal Description

The subject property is located at 2280 and 2288 Whitefish Stage near Kalispell, MT (see Figure 1 below). The property is approximately 81.55 acres in size and at the time of submittal was legally described as Tracts 6, 6AA and 6B in Section 19, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



C. Proposed Zoning Map Amendment

The subject property is located within the Highway 93 North Zoning District and is currently zoned ‘SAG-10 Suburban’ (see Figure 2 below). As depicted in Figure 3 below, the applicant has requested a zoning map amendment to zone the property ‘R-2.5 Rural Residential.’ Per Section 3.07 of the Flathead County Zoning Regulations (FCZR), SAG-10 is ‘*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*’

The R-2.5 designation is defined in Section 3.43 FCZR as, ‘*A district intended for rural, primarily residential areas where larger, estate-type lot sizes are appropriate and agricultural/silvicultural/horticultural operations are a decreasingly viable land use. The use of this district is appropriate in transition areas adjacent to and between higher-density Residential (R) and lower-density Suburban Agriculture (SAG) zones. This district is not appropriate in areas primarily surrounded by lower-density SAG and AG zones and/or areas adjacent to significant ongoing agricultural/silvicultural/horticultural and/or extractive industry operations. Furthermore, public facilities should be appropriately developed to accommodate the density and land uses of this designation. This includes paved roads. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein.*’

Figure 2: Current zoning applicable to subject property (outlined in blue)

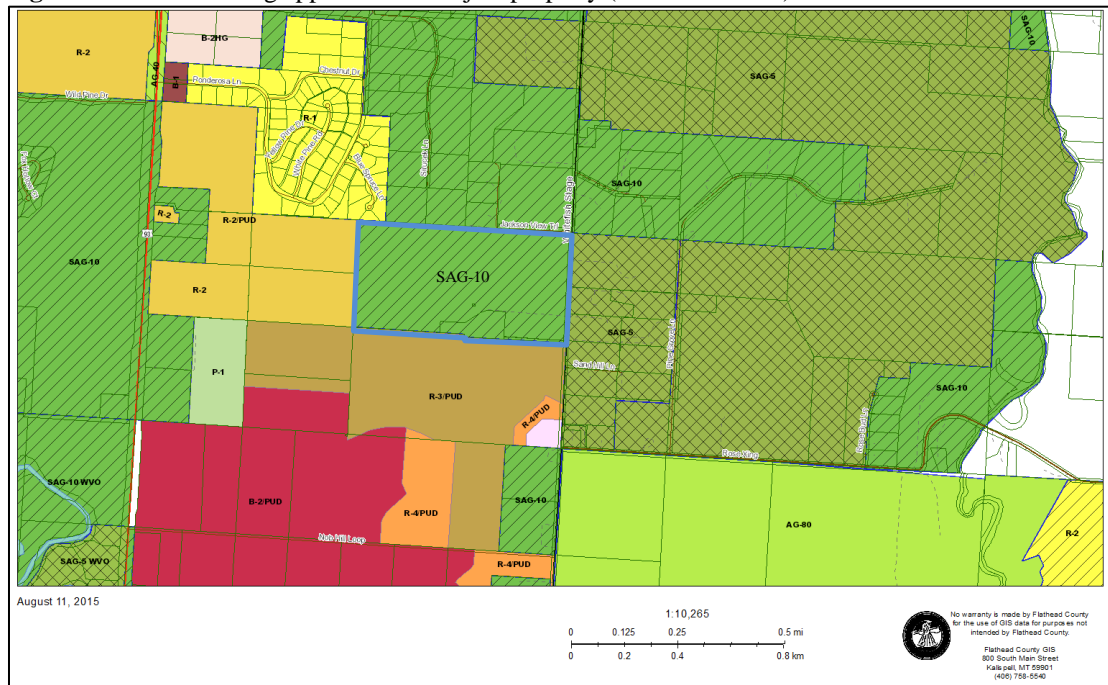
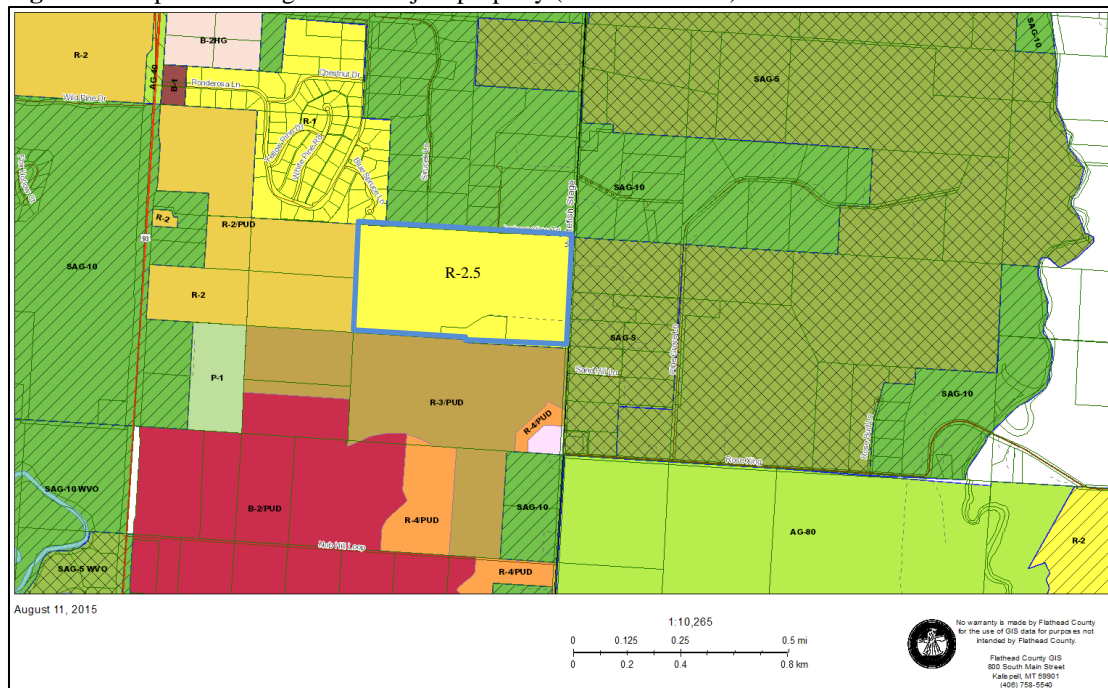


Figure 3: Proposed zoning on the subject property (outlined in blue)



D. General Character of and Reason for Amendment

The property contains a hill located in the middle of the property where the existing structures are located. On both sides of the structures are fields that appear to be used for agricultural purposes. The applicant has stated that the purpose of the proposed zone change is estate planning.

Figure 4: Aerial view of subject property (outlined in yellow)

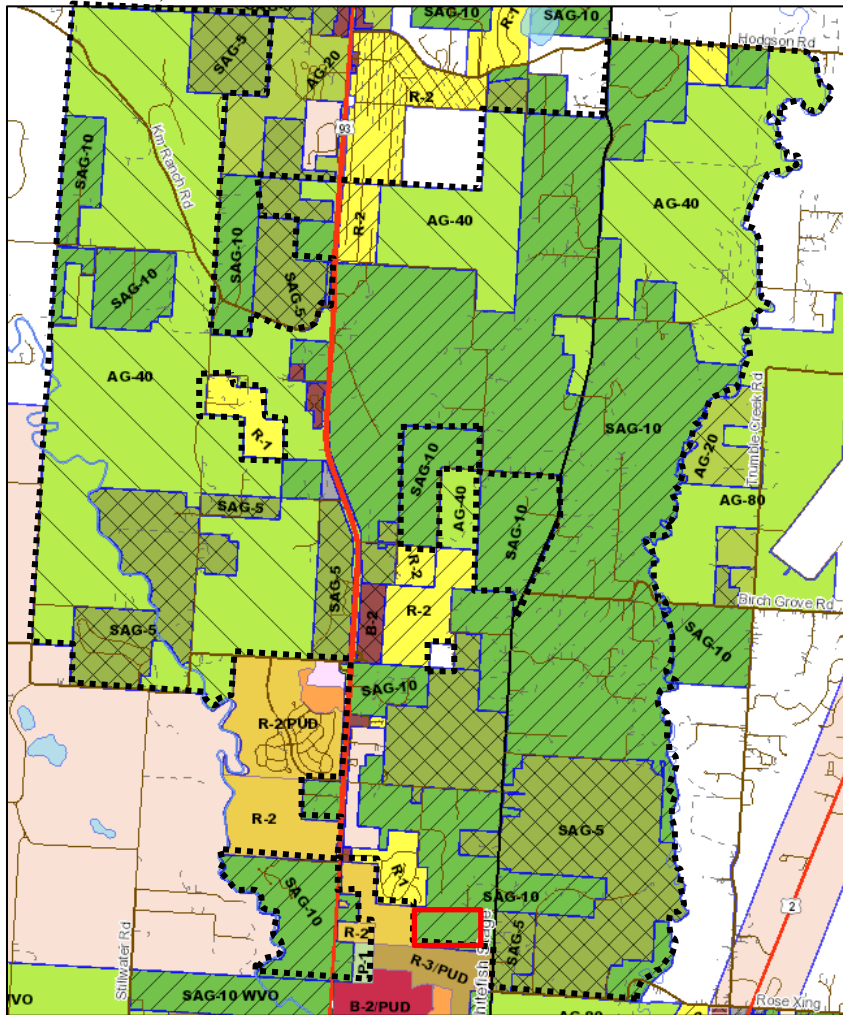


E. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located adjacent to higher density residential zoning within the City of Kalispell, 'SAG-10 Suburban Agricultural,' 'SAG-5 Suburban Agricultural and 'R-1 Suburban Residential' zoning. The uses to the south and west are currently agricultural but have been annexed in to the City of Kalispell as R-2/PUD and R-3/PUD. Further south of the property and along W. Reserve Drive is commercial uses, big box commercial and a church. The properties to the north and east are generally agricultural, large estate residential and large lot agricultural lands. Northwest of the subject property is County R-1 zoning. The area zoned R-1 is developed single family residential on lots less than 1 acre.

Located northwest of the subject property are the Ponderosa and Ponderosa North Subdivisions which have average lot sizes of approximately 0.7 acres. Directly to the south of the proposal are four lots that are 10.5, 10.5, 79.4 and 80.0 acres in size. The seven lots to the southwest of the subject property average 19.2 acres and most of those lots have been annexed into the City of Kalispell. The majority of properties to the east, adjacent to Whitefish Stage are approximately 5.0 acres. The lots setback from Whitefish Stage range in size from 3.1 acres up to 142.4 acres. Three of the larger lots to the east are located within the Rosewater Subdivision which has preliminary plat approval at a density of 1 dwelling per 2.65 acres. The properties to the north range in size from 0.6 acres up to 24.8 acres, with the majority of the lots around 5.0 acres in size.

Figure 5: Highway 93 North Zoning District (outlined with dashed black line & subject property outlined in red)



When an application appears to have the potential for spot zoning, the “three part test” established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a brief review of the three-part test in relation to this application.

- i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The subject property is located adjacent to higher density residential zoning within the City of Kalispell and County SAG-10, SAG-5 and R-1 zoning. The proposed R-2.5 zoning would allow for agricultural and single family residential on 2.5 acre lots, similar to what exists in the area presently.

The uses to the south and west are currently agricultural but have been annexed in to the City of Kalispell as R-2/PUD and R-3/PUD. Across Highway 93, to the west of the subject property is a golf course and higher density residential.

Further south of the property and along W. Reserve Drive is commercial uses, big box commercial and a church. The properties to the north and east are generally agricultural and large estate residential. Further to the east and north of the subject property is large agricultural lands. Northwest of the subject property is County R-1 zoning and developed single family residential on lots less than 1 acre. The trend in the area appears to be going away from large agricultural land to urban density residential and commercial uses. The proposed R-2.5 zone is designed as a transition zone between higher density residential areas and lower density suburban agricultural zones, per Section 3.43.010 FCZR. The uses allowed in the R-2.5 zone would not differ significantly from existing uses in the area or future uses on property that has been annexed into the City of Kalispell.

- ii. *The zoning applies to a small area or benefits a small number of separate landowners.*

Using standard ArcGIS software staff determined that the subject property is located within an SAG-10 zoning district approximately 484.98 acre in size. The area of the proposed zoning map amendment is 81.55 acres or 16.8% of the existing SAG-10 district. Northwest of the subject property is an area zoned R-1 approximately 88.2 acres. The R-3/PUD zoning to the south is approximately 118.1 acres and The R-2/PUD zoning to the south is approximately 96.7 acres and both are within the City of Kalispell. The SAG-5 zoning to the east is approximately 1092.4 acres. The proposed R-2.5 zoning would be similar in size to the existing R-1, R-2/PUD and R-3/PUD zoning and makes up approximately 16.8% of the SAG-10 zoning and would therefore not apply to a small area.

- iii. *The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

Since the zoning map amendment would apply to three tracts for the benefit of two owners, this zoning map amendment may appear to be at the expense of the surrounding landowners. As previously stated the uses allowed within the proposed zone are similar to the existing uses on the properties within the vicinity. Many of the land uses listed as permitted uses in the proposed R-2.5 zone exist in the area of the subject property, or would not be out of character with the existing uses.

The requested map amendment would alter the minimum lot size permissible and the list of permitted and conditional uses. In the event the subject property were subsequently developed to the greatest build-out possible the 2.5 acre minimum lot size would result in a higher density development than on adjacent properties within the SAG-10 zoning but would be a lesser density than what is permitted on the adjacent R-2/PUD, R-3/PUD and R-1 zoning.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #1: The proposed zoning map amendment does not appear to constitute spot zoning because the proposed zone change would allow for the same uses permitted

throughout the existing SAG-10 zoning, similar uses to what is allowed within the existing adjacent R-1, R-2/PUD and R-3/PUD, does not create a zone that applies to a small number of landowners or small area and maintains the character of the overall zoning district.

F. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Edgerton School District Flathead High School District
Fire:	West Valley Fire District
Police:	Flathead County Sheriff's Office

G. Criteria Used for Evaluation of Proposed Amendment

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

H. Compliance With Public Notice Requirements

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on September 23, 2015. Legal notice of the Planning Board public hearing on this application was published in the September 27, 2015 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

I. Agency Referrals

Referrals were sent to the following agencies on August 11, 2015:

- Bonneville Power Administration
- City of Kalispell Planning Department
- Edgerton School District
- West Valley Fire District
- Flathead City-County Health Department; Environmental Health Services
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department
- Flathead High School District

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for October 14, 2015 and/or the Commissioner's Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: "BPA does not have any objections to the approval of this request at this time." Email dated August 31, 2015.
- Flathead County Solid Waste
 - Comment: "The Solid Waste District views no negative impact with solid waste issues at this time. The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission private hauler in this area." Letter dated August 24, 2015.
- Flathead County Road & Bridge Department
 - Comment: "At this point the County Road Department does not have any comments on either of this request." Letter dated August 12, 2015.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

i. Current Zoning

The property is currently zoned 'SAG-10 Suburban Agricultural.' SAG-10 is defined in Section 3.07 FCZR as, '*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will*

be minimized, and to provide areas of estate-type residential development.” The following is a list of permitted uses in an SAG-10 zone (Section 3.07.020 FCZR):

1. *Agricultural/horticultural/silvicultural use.*
2. *Cellular tower.*
3. *Class A and Class B manufactured home.*
4. *Cluster housing.*
5. *Dairy products processing, bottling, and distribution.*
6. *Day care home.*
7. *Dwelling, single-family.*
8. *Dwelling unit, accessory (ADU).*
9. *Guest house.*
10. *Home occupation.*
11. *Homeowners park and beaches.*
12. *Livestock*
13. *Nursery, landscaping materials.*
14. *Park and publicly owned recreational facility.*
15. *Produce stand.*
16. *Public transportation shelter station.*
17. *Public utility service installation.*
18. *Ranch employee housing.*
19. *Riding academy, rodeo arena.*
20. *Stable, public and private.*

The following uses are listed as conditional uses in an ‘SAG-10’ zone (Section 3.07.030 FCZR). An asterisk designates conditional uses that may be reviewed administratively and two asterisks designate conditional uses that may be reviewed administratively for eight or fewer units:

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.**
3. *Animal hospital, veterinary clinic.*
4. *Bed and breakfast establishment.*
5. *Camp and retreat center.*
6. *Caretaker’s facility.**
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.***
11. *Contractor’s storage yard.**
12. *Dwelling, family hardship.**
13. *Electrical distribution station.*
14. *Extractive industry.*
15. *Golf course.*
16. *Golf driving range.*
17. *Kennel, commercial.**
18. *Manufactured home park.*

19. *Recreational facility, low-impact.*
20. *School, primary and secondary.*
21. *Temporary building or structure.**
22. *Water and sewage treatment plant.*
23. *Water storage facility.*

The bulk and dimensional standards for SAG-10 zoning requires a setback for principal structures of 20 feet from the boundary line or right-of-way for the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet for the rear and side. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The SAG-10 zoning classification has a 20% permitted lot coverage and a maximum height of 35 feet for a structure.

The SAG-10 zoning requires a minimum lot area of 10 acres and the subject property totals 81.55 acres. Therefore, approximately 8 single family lots could be created under the existing zoning.

ii. **Proposed Zoning**

As previously stated, the applicant is proposing 'R-2.5 Rural Residential' zoning. R-2.5 is defined in Section 3.43.010 FCZR as, '*A district intended for rural, primarily residential areas where larger, estate-type lot sizes are appropriate and agricultural/silvicultural/horticultural operations are a decreasingly viable land use. The use of this district is appropriate in transition areas adjacent to and between higher-density Residential (R) and lower-density Suburban Agriculture (SAG) zones. This district is not appropriate in areas primarily surrounded by lower-density SAG and AG zones and/or areas adjacent to significant ongoing agricultural/silvicultural/horticultural and/or extractive industry operations. Furthermore, public facilities should be appropriately developed to accommodate the density and land uses of this designation. This includes paved roads. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein.*' The following is a list of permitted uses in an R-2.5 zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A manufactured home.*
3. *Day care home.*
4. *Dwelling, single-family.*
5. *Dwelling unit, accessory (ADU).*
6. *Guest house.*
7. *Home occupation.*
8. *Homeowners park and/or beach.*
9. *Livestock.*
10. *Nursery, landscaping material.*

11. *Park and/or publicly owned recreation facility.*
12. *Produce stand.*
13. *Public transportation shelter station.*
14. *Public utility service installation (a minimum of five feet of landscaped area shall surround such building or structure).*
15. *Stable, private.*

The following uses are listed as conditional uses in an 'R-2.5' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. *Airfield.*
2. *Aircraft hangar when in association with properties within or adjoining an airport/landing field.**
3. *Bed and breakfast establishment.*
4. *Camp and retreat center.*
5. *Caretaker's facility.**
6. *Cellular antenna and monopole.*
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.***
11. *Dwellings, cluster development.**
12. *Electrical distribution station.*
13. *Golf course.*
14. *Golf driving range.*
15. *Manufactured home park.*
16. *Radio and television broadcast station.*
17. *School, primary and secondary.*
18. *Stable, public.*
19. *Temporary building or structure.**
20. *Water and sewage treatment plant.*
21. *Water storage facility.*

The bulk and dimensional standards under R-2.5, requires a setback of 20 feet from the front, side, rear and side-corner on principal structures and 20 feet from the front and side-corner and 5 feet from the rear and side for accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or arterials.

The R-2.5 zone permitted lot coverage is 25% and a maximum height of 35 feet and a minimum lot area of 2.5 acres. The subject property 81.55 acres and in typical subdivisions 30% of the lot is dedicated to infrastructure leaving approximately 70% of the property for new lots. Therefore, approximately 23 lots could be created under the proposed zoning.

The requested zone change from SAG-10 to R-2.5 has the potential to increase density through subsequent division of the land in the future. The bulk and dimensional requirements are similar for SAG-10 and R-2.5. The map amendment

would introduce only one new use to the subject property that is not typical of suburban agricultural zoning designation. However, several uses that are permitted in the SAG-10 are not permitted within R-2.5.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally the property is located within the Kalispell City-County Master Plan 2010, adopted on February 6, 1986 by the Flathead County Commissioners (Resolution #578A) and the City of Kalispell on April 7, 1986 (Resolution #3641).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed ‘R-2.5 Rural Residential’ zoning classification would appear to contrast with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

❖ **G.2 – Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.**

- The amendment would allow the owners to give land to their children while still keeping land for themselves.

- ❖ **G.3** – *Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing the flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*
 - **P.3.3** - *Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.*
 - **P.3.5** - *Identify reasonable densities for remote, rural development that do not strain the provision of services or create a public health or safety hazard.*
 - In R-2.5 the owners would still be able to farm the land if they so choose.
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land use.*
 - **P.4.2** – *Identify lands most suited to agriculture (appropriate soils, access to water, shape and size of parcel, etc.).*
 - **P.4.3** – *Identify a desirable gross density for rural residential development that retains land value, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc).*
 - The zoning map amendment allows greater flexibility to the land owner while still allowing agriculture and forestry uses.
- ❖ **G.8** – *Safe healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowner to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
 - The R-2.5 designation would allow for densities of 1 dwelling units per 2.5 acres which would likely not require public services because 2.5 acres lots can be serviced by septic systems and wells.
- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
 - **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
 - **P.23.4** – *Recognize areas in proximity to employment and retail centers as more suitable for higher residential densities and mixed use development.*
 - This report contains discussion on the proposals potential burden on transportation below.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*

- This report contains discussion on the proposals potential burden on schools below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below.

Finding #2: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the ‘Suburban Agriculture’ land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created and is not a future land use map.

2. Two Rivers Neighborhood Plan

The Two Rivers Neighborhood Plan (Neighborhood Plan) Map was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level. The Neighborhood Plan map designates the subject property as Rural 1, which calls for a maximum density of 1 dwelling per acre. The proposed R-2.5 allows for a density of 1 dwelling per 2.5 acres under the maximum density planned for in the Two Rivers Plan.

Finding #3: The proposed zoning map amendment appears to comply with the text and map of the Two Rivers Neighborhood Plan because the plan identifies the subject property as Rural 1 which would stipulate a density of 1 dwelling unit per acre and the R-2.5 would allow for a lower density at 1 dwelling unit per 2.5 acres.

ii. Whether the proposed map amendment is designed to:

1. Secure safety from fire and other dangers;

The subject property is located within the West Valley Fire District and the nearest fire and emergency response center is located approximately a half a mile northeast of the property on Whitefish Stage. The West Valley Fire Department would respond in the event of a fire or medical emergency. The West Valley Fire Department did not provide comments on this proposal. The subject property is not located within the Wildland Urban Interface (WUI) or within a fire district priority area.

The application states, “The property is located within the West Valley Volunteer Fire District, which has a fire station within sight of the subject property and is within a few short minutes drive. The subject property is gently rolling, without any dangers of avalanche or slumping. There is no floodplain located on the property.”

The subject property is located on Whitefish Stage which is classified as a 24 foot wide MDT maintained state secondary highway within a 60 foot

easement. The road appears adequate to provide ingress and egress for emergency services.

The subject property contains slope gently up from Whitefish Stage to the middle of the property and then loses elevation towards the west. According to FEMA FIRM Panels 30029C1415G and 30029C1420H, the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance floodplain. There is a low chance of flooding on the subject property.

Finding #4: The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI, is located on an MDT maintained secondary highway, is located approximately 0.5 miles from the nearest fire station and is not in the 100 year floodplain.

2. Promote public health, public safety, and general welfare;

The property is located within the West Valley Fire District about a half mile northeast of the nearest fire and emergency response center located on Whitefish Stage. The West Valley Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff's Department provides police services to the subject property. The property is located on Whitefish Stage, which appears adequate to provide ingress and egress for emergency services which would help to ensure adequate public health and safety.

According to the applicant, "Future development will require upgrading of the driveways/internal subdivision roads and utilities to potential lots. Emergency services are in the immediate area and have adequate response times."

The proposed R-2.5 would allow for only one use with a conditional use permit that is not allowed within the SAG-10 (*'Radio and television broadcast station'*). Four permitted uses permitted within SAG-10 are not allowed as a permitted or conditional use in R-2.5, they include:

1. *'Class B Manufactured home.'*
2. *'Dairy products processing, bottling, and distribution.'*
3. *'Ranch Employee Housing.'*
4. *'Riding academy, rodeo arena.'*

There are three permitted uses in SAG-10 which would require the issuance of a conditional use permit in R-2.5:

1. *'Cluster housing'*
2. *'Cellular tower'*
3. *'Stable, public'*

Four uses are allowed with a conditional use permit in SAG-10 that are not allowed at all within the R-2.5 zoning, they are:

1. *'Animal hospital, veterinary clinic.'*
2. *'Contractor's storage yard.'*
3. *'Extractive industry.'*

4. *'Kennel, commercial.'*

Another difference between the existing and proposed zoning is minimum lot area, in the existing SAG-10 zoning the minimum lot area is 10 acres while the proposed R-2.5 zone has a 2.5 acre minimum lot area. The uses allowed within the R-2.5 are similar to what is currently allowed and therefore a zone change is not likely to impact public health, public safety, and general welfare.

Finding #5: The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because the property is served by the Flathead County Sheriff and the West Valley Fire Department and future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Primary access to the property is currently off Whitefish Stage. Whitefish Stage is a 24-foot wide two-lane paved MDT maintained road within 60 foot easement. The Montana Department of Transportation did not provide comments on this request.

Traffic counts from MDT taken in 2014 indicate an average daily traffic of 3,460 which is a slight increase in traffic from the two prior years. Using standard trip generation, residential uses generate traffic at typically 10 vehicle trips per dwelling for single family. The property is approximately 81.55 acres and the minimum lot size for the current SAG-10 zone is 10 acres. In the SAG-10 zoning the subject property could be further divided into 8 lots.

The proposed R-2.5 would allow for a minimum lot size of 2.5 acres. Within the R-2.5 zone lot area is calculated with easements. Generally 30% of a subdivision is dedicated to infrastructure and easements leaving approximately 70% of the lot for single family lots. Therefore, approximately 23 single family homes could be constructed on the subject, which would generate 230 average daily trips.

The application states that the subject property will be serviced by individual sewer and water systems. The applicant will be required to work with Flathead City-County Health Department to develop an on-site well and sewer system to meet the needs of any future development. No comments were received from the Flathead City-County Health Department.

While the subject property is located within the Flathead High School District and Edgerton Elementary School District, neither school district provided comments on this proposal. The development of lots less than 5 acres in size would likely trigger parkland requirements during subdivision review; additionally there are many parks, natural areas, and recreational opportunities within a short drive.

Finding #6: The proposed amendment appears to facilitate the adequate provision of transportation, water, sewerage, schools and parks because

comments from the Flathead County Environmental Health indicate no concerns, MDT did not provide comments indicating no concerns, subdivision review could require parkland dedication and comments were not received from either school district.

iii. In evaluating the proposed map amendment, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The application states, “Yes, as the proposed zone change is to a 2.5 acre minimum lot size, there will be significant provisions for adequate light and air. Setbacks and lot coverages as called out by the Flathead County Zoning Regulations also work to insure that there is adequate amounts of light and air available.”

As the applicant states the bulk and dimensional requirements, which includes setbacks, have been established to provide for a reasonable provision of light and air. The minimum lot area for the proposed R-2.5 zone is 2.5 acres and the minimum lot area for the existing SAG-10 zone is 10 acres. The density allowed within R-2.5 would be greater than the density allowed within the current SAG-10 zone. The maximum building height within the proposed R-2.5 zone is 35 feet for a principal structure and 18 feet for an accessory structure and the maximum height for the existing SAG-10 zone is 35 feet for both a principal and accessory structure. The permitted lot coverage is 20% in the SAG-10 zone and is 25% in the proposed R-2.5 zone

The bulk and dimensional requirements in the existing SAG-10 zone require a setback from the boundary line of 20 feet from all property boundaries for the principal structure, 20 feet from the front and side corner on accessory structures and 5 feet from the rear and side on accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The bulk and dimensional requirements in the R-2.5 zone require a setback from the boundary line of 20 feet from all property boundaries for the principal structure, 20 feet from the front and side corner on accessory structures and 5 feet from the rear and side on accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector and arterials.

The setbacks for the proposed zone are the same as those in the existing SAG-10 zoning while a greater area of a lot can be covered in the R-2.5 zone. The bulk and dimensional requirements for the R-2.5 designation have been established to provide for a reasonable provision of light and air.

Finding #7: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed R-2.5 designation.

2. The effect on motorized and non-motorized transportation systems;

Primary access to the property is currently off Whitefish Stage. Whitefish Stage is a 24-foot wide two-lane paved MDT maintained road within 60 foot easement. The Montana Department of Transportation did not provide comments on this request. Comment from the applicant states, “If this were to be strictly divided by the 2.5 acres minimum lot size, that would give you a grand total of 33 lots. Once you take into consideration roads and infrastructure requirements, this will result in the loss of several of those lots which will reduce the total number. Even if a potential subdivision were to be ‘Clustered,’ allowing a greater portion of open space, (60% of the total property) the maximum number of lots that could be created would be approximately 47. A typical estimate of vehicle trips per day is to estimate 10 car trips per household. So worst-case scenario would be 470 trips per day, coming from this general area.”

Traffic counts from MDT taken in 2014 indicate an average daily traffic count of 3,460 which is a slight increase in traffic from the two prior years. Using standard trip generation, residential uses generate traffic at typically 10 vehicle trips per dwelling for single family. The property is approximately 81.55 acres and the minimum lot size for the current SAG-10 zone is 10 acres. In the SAG-10 zoning the subject property could be further divided into 8 lots.

The proposed R-2.5 would allow for a minimum lot size of 2.5 acres. Generally 30% of a subdivision is dedicated to infrastructure and easements leaving approximately 70% of the lot for single family lots. Therefore, approximately 23 single family homes could be constructed on the subject, which would generate 230 average daily trips.

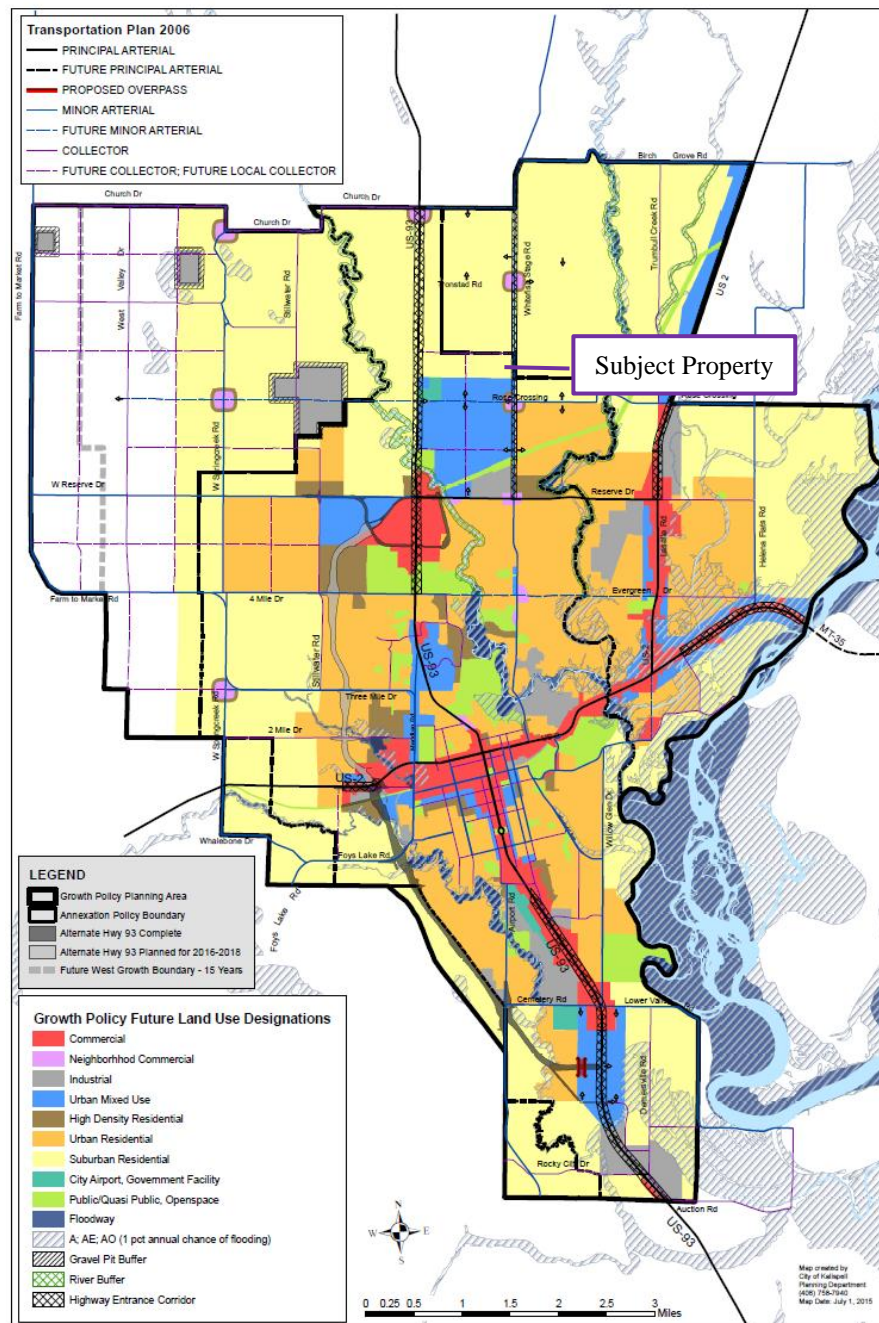
The Flathead County Trails Plan identifies Whitefish Stage as an arterial bike/pedestrian trail. It is anticipated that there will be minimal impact on non-motorized traffic because future subdivision development on the property would require an easement for a bicycle trail along Whitefish Stage.

Finding #8: Effects on motorized and non-motorized transportation systems will be minimal because the Montana Department of Transportation had no concerns with this proposal, the traffic generated by the proposed zoning has the potential to be less than traffic of the existing use and future development of the property would require an easement for a pedestrian/bike trail.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

According to the application, “The Kalispell Annexation Policy boundary is in close proximity to the boundaries of the Two Rivers Plan, which indicates that Kalispell does not have the political will nor infrastructure resources to venture further out in the county. Kalispell supports their denser residential areas within their Master Plan and the subject property is well outside of those boundaries. Kalispell has no reason to support large residential lots on private septic systems and wells if the property is outside of their planning jurisdiction.”

Figure 6: City of Kalispell Growth Policy Future Land Use Map



Kalispell is the nearest municipality to the subject property and borders the property on the west and south. The property is located within the boundary of the Kalispell Growth Policy and is located within the annexation policy boundary (See Figure 6). An agency referral was sent to the Kalispell planning department on August 11, 2015 but staff has not received any comments from the City as of the date on this report.

The subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The

Kalispell Growth Policy Planning Area Map designated the property as “Suburban Residential.” According to the Kalispell Growth Policy the “Suburban Housing” states, “*a. Densities should be appropriate to the limitations of the particular site, and should not exceed two or four dwellings per gross acre. b. The suburban residential designation is intended to reduce density and development impacts in sensitive areas and existing rural neighborhoods.*” The “Suburban Residential” on the map would seem to generally correspond with the “Suburban Housing” designation within the text of the Growth Policy. The proposed R-2.5 zoning would not exceed two to four dwelling per gross acre. It appears that the proposed zoning designation would be compatible with urban growth in the vicinity of Kalispell.

Finding #9: The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and the proposal appears to be compatible with urban growth in the vicinity of Kalispell because no comments were received from the City of Kalispell to indicate concern and the proposed zone is less dense than the designation of “Suburban Housing.”

4. The character of the district(s) and its peculiar suitability for particular uses;

The application states, “the landscape, soils, water availability, location to emergency services, schools, public roads, highways and recreation, this proposal is within the character of the district and is well-suited for large-lot residential living. There appears to be demand for these types of lots and the Two Rivers Master Plan has anticipated this use.”

The proposed R-2.5 would allow for similar uses to what exists in the current SAG-10 zoning. The Two Rivers Neighborhood Plan was adopted in 2005 and calls for many of the properties in the area to be higher density residential. The City of Kalispell is growing north and is located adjacent to the subject property. Much of the area around the property has not been developed since being annexed into the City. But as more properties are annexed into the City they are being zoned higher density residential. Based on the existing character and trends of the district and the area around the subject property, the proposed R-2.5 zoning allows uses that are suitable.

Finding #10: The proposed zoning map amendment appears suitable for the particular district because the uses permitted and conditionally permitted within the R-2.5 zoning are similar to uses that exist in the vicinity of the property and the trend in the immediate vicinity of the subject property has been to rezone agricultural zoned lots to residential since the adoption of the Highway 93 North Zoning District.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The subject property is located within the Highway 93 North Zoning District and surrounded by residential and suburban agricultural zones (see Figure 2). The application states, “[...]. The proposal is consistent with the surrounding neighborhood and will be a benefit to the community. The Two Rivers Plan

supported and encouraged just this type of project.”

Previous sections of this report have discussed the differences between permitted and conditional uses in the existing SAG-10 zoning and the proposed R-2.5 zoning. The uses allowed in the proposed zoning are similar to the existing uses.

Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. Many of the land uses listed as permitted uses in the proposed R-2.5 zone exist in the vicinity of the subject property such as; single family residential and agricultural. The permitted and conditional uses would likely not impact the value of buildings and would be appropriate land uses throughout the area of the proposed zone change because they already exist in the area.

Finding #11: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the R-2.5 designation allows for similar uses to the neighboring suburban agricultural and residential zoning, the area is currently rural residential and agricultural which is in line with the proposed R-2.5 zone.

iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The location of the proposed zoning map amendment is directly adjacent to the City of Kalispell. The downtown core of the City of Kalispell is located approximately 4.5 road miles away, to the south. As previously stated, the subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The Kalispell Growth Policy Planning Area Map designated the property as “Suburban Residential.” According to the Kalispell Growth Policy the “Suburban Housing” states, “*a. Densities should be appropriate to the limitations of the particular site, and should not exceed two or four dwellings per gross acre. b. The suburban residential designation is intended to reduce density and development impacts in sensitive areas and existing rural neighborhoods.*”

The nearest City of Kalispell zoning is R-2/PUD and R-3/PUD to the west and south of the subject property. The Kalispell R-2 and R-3 zones are residential zone that allows for single family residential on 10,000 and 6,000 square foot lots. The proposed R-2.5 is more compatible with the City residential zones than the existing SAG-10. Because the City does not have suburban residential zoning that accommodates larger lots or many of the uses allowed in R-2.5 zone, the amendment appears to be, as nearly as possible, compatible with the zoning ordinance of the City of Kalispell.

Finding #12: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the City does not have suburban residential zoning that accommodates larger lots or allow many uses allowed in the proposed R-2.5, such as public stables or airfield.

V. SUMMARY OF FINDINGS

- 1) The proposed zoning map amendment does not appear to constitute spot zoning because the proposed zone change would allow for the same uses permitted throughout the existing SAG-10 zoning, similar uses to what is allowed within the existing adjacent R-1, R-2/PUD and R-3/PUD, does not create a zone that applies to a small number of landowners or small area and maintains the character of the overall zoning district.
- 2) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the 'Suburban Agriculture' land use designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created and is not a future land use map.
- 3) The proposed zoning map amendment appears to comply with the text and map of the Two Rivers Neighborhood Plan because the plan identifies the subject property as Rural 1 which would stipulate a density of 1 dwelling unit per acre and the R-2.5 would allow for a lower density at 1 dwelling unit per 2.5 acres.
- 4) The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI, is located on an MDT maintained secondary highway, is located approximately 0.5 miles from the nearest fire station and is not in the 100 year floodplain.
- 5) The proposed amendment does not appear to have a negative impact on public health, safety and general welfare because the property is served by the Flathead County Sheriff and the West Valley Fire Department and future development would be similar to uses already permitted and conditionally permitted in the current SAG-10 zoning.
- 6) The proposed amendment appears to facilitate the adequate provision of transportation, water, sewerage, schools and parks because comments from the Flathead County Environmental Health indicate no concerns, MDT did not provide comments indicating no concerns, subdivision review could require parkland dedication and comments were not received from either school district.
- 7) The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed R-2.5 designation.
- 8) Effects on motorized and non-motorized transportation systems will be minimal because the Montana Department of Transportation had no concerns with this proposal, the traffic generated by the proposed zoning has the potential to be less than traffic of the existing use and future development of the property would require an easement for a pedestrian/bike trail.
- 9) The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and the proposal appears to be compatible with urban growth in the vicinity of Kalispell because no comments were received from the City of

Kalispell to indicate concern and the proposed zone is less dense than the designation of “Suburban Housing.”

- 10) The proposed zoning map amendment appears suitable for the particular district because the uses permitted and conditionally permitted within the R-2.5 zoning are similar to uses that exist in the vicinity of the property and the trend in the immediate vicinity of the subject property has been to rezone agricultural zoned lots to residential since the adoption of the Highway 93 North Zoning District.
- 11) This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the R-2.5 designation allows for similar uses to the neighboring suburban agricultural and residential zoning, the area is currently rural residential and agricultural which is in line with the proposed R-2.5 zone.
- 12) The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the City does not have suburban residential zoning that accommodates larger lots or allow many uses allowed in the proposed R-2.5, such as public stables or airfield.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM